

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

Th11c

Filed: 12/17/2003
49th day: Waived
Staff: MJN-SC
Staff report prepared: 2/17/2004
Hearing date: 3/18/2004

APPEAL STAFF REPORT

SUBSTANTIAL ISSUE DETERMINATION

Appeal number **A-3-SCO-03-119, Arata 7-Unit Townhouse and Subdivision**

Applicants David Arata

Appellant Charles Paulden, People for the Preservation of Pleasure Point

Local government Santa Cruz County

Local decision Approved with conditions (November 12, 2003)

Project location Inland side of East Cliff Drive (between East Cliff Drive and Moana Way approximately 100-feet east of 38th Avenue) in the Pleasure Point region of the unincorporated Live Oak area of Santa Cruz County (APNs 032-171-01, 02, 03, 04 and 05).

Project description Demolish three single-family dwellings, combine five parcels, subdivision of land into 7 single-family townhouse lots and one lot in common ownership, grade approximately 2,000 cubic yards of material, and construct seven townhouse units.

File documents Santa Cruz County Certified Local Coastal Program; Santa Cruz County Coastal Development Permit Application File 02-0271.

Staff recommendation ... **No Substantial Issue**

I. Recommended Findings and Declaration for No Substantial Issue:

Summary: This is the substantial issue determination for appeal number A-3-SCO-03-119. Santa Cruz County approved a project to demolish three existing single-family residences (one two-story single-family residence and two one-story single-family residences) and combine five parcels to form a total area of .75 acres. Subdivide land into seven single-family townhouse lots and one lot for common space. Seven 3-bedroom two-story townhouses, common space, and a parking area are planned for the site. The townhouses will be located on lots varying in size from 1,495 to 1,929 square feet. The remaining 21,746 square feet of common space will contain parking, landscaped pathways, a lawn, barbeque area, and pedestrian access between Moana Way and East Cliff Drive (see County approval attached as Exhibit 1). The land use designation where the project occurs is Urban Medium Density Residential (R-UM). The project is located in the Pleasure Point region within the Live Oak Beach Area



California Coastal Commission
March 18, 2004 Meeting in Monterey

Staff: M. Nowak Approved by:

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of Santa Cruz County (location map attached as Exhibit 2). The southern boundary of the property is approximately 60 to 80 feet away from the top of the coastal bluff. The Appellant claims that the County-approved project would not adequately protect the Pleasure Point community and visual character, an existing public trail and recreational access, and Monterey Bay water quality, and is thus inconsistent with the County's Local Coastal Program (LCP). The Appellant raises a several valid issues; however, these do not rise to the level of a substantial issue requiring the Commission to take jurisdiction over the project. The Applicant has developed a relatively modest project, which is generally consistent with the level of adjacent urbanization and the surrounding character, and has been designed to address impervious runoff entering Monterey Bay.

The site is on the landward side of East Cliff Drive and the existing public access trail traversing the project site will remain intact and be demarcated by signage. Although the project will replace smaller homes that currently exist on a portion of the parcel, the project will not be any denser than the surrounding existing neighborhood. The immediate neighborhood is a mixture of two-story single-family homes and multi-family structures. The architectural style in this area is a mix of eclectic styles and includes Spanish style structures scattered throughout the neighborhood. Water quality best management practices (BMPs) include the use of silt and grease traps that should, for this particular site, ensure that runoff from the site does not adversely impact Monterey Bay waters.

Staff recommends that the Commission find that no substantial issue exists with respect to this projects conformance with the certified Santa Cruz County LCP and decline to take jurisdiction over the coastal development permit for the project.

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Live Oak is the name for the unincorporated segment of Santa Cruz County located between the City of Santa Cruz (upcoast) and the City of Capitola (downcoast). The Live Oak coastal area is well known for excellent public access opportunities for beach area residents, other Live Oak residents, other Santa Cruz County residents, and visitors to the area. Walking, biking, skating, viewing, skimboarding, bodysurfing, surfing, fishing, sunbathing, and more are all among the range of recreational activities possible along the Live Oak shoreline. In addition, Live Oak also provides a number of different coastal environments including sandy beaches, rocky tidal areas, blufftop terraces, and coastal lagoons (such as Moran Lake). Live Oak includes a number of defined neighborhood and special communities within it, including the larger Pleasure Point area in which this site is located. These varied coastal characteristics make the Live Oak shoreline unique in that a relatively small area can provide different recreational users a diverse range of alternatives for enjoying the coast. By not being limited to one large, long beach, or solely an extended stretch of rocky shoreline, the Live Oak shoreline accommodates recreational users in a manner that is typical of a much larger access system.

Primarily residential with some concentrated commercial and industrial areas, Live Oak is a substantially urbanized area with few major undeveloped parcels remaining. Development pressure has been disproportionately intense for this section of Santa Cruz County. Because Live Oak is projected to absorb the majority of the unincorporated growth in Santa Cruz County, development pressure will likely continue to tax Live Oak's public infrastructure (e.g., streets, parks, beaches, etc.) as the remaining vacant parcels are developed and developed residential lots are re-developed with larger homes.¹ Given that the beaches are the largest public facility in Live Oak, this pressure will be particularly evident in the beach area.

1. Local Government Action

On November 11, 12, 2003, the Santa Cruz County Planning Commission approved the proposed project subject to multiple conditions (see Exhibit 1 for the County's staff report, findings and conditions on the project). The Planning Commission approval was not appealed to the Board of Supervisors. Notice of the coastal development permit (CDP) was received in the Coastal Commission's Central Coast Office on December 3, 2003.

II. Recommended Motion and Resolution

MOTION:

*I move that the Commission determine that Appeal No. A-3-SCO-03-119 raises **NO** substantial*

¹ Live Oak is currently home to some 20,000 residents. The LCP identifies Live Oak at buildout with a population of approximately 29,850 persons; based on the County's recreational formulas, this corresponds to a park acreage of 150-180 acres. Though Live Oak accounts for less than 1% of Santa Cruz County's total acreage, this projected park acreage represents nearly 20% of the County's total projected park acreage.



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issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

STAFF RECOMMENDATION:

*Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.*

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission finds that Appeal No. A-3-SCO-03-119 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

III. Appeal Procedures

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it is within 300 feet of the inland extent of the beach.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo coastal development permit hearing on an appealed project unless a majority of the Commission finds that “no substantial issue” is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is not located between the first public road and the sea and thus, this additional finding need not be made in a de novo review in this case.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted



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in writing. Any person may testify during the de novo stage of an appeal.

2. Appellant's Contentions

The Appellant contends that the project is not consistent with the LCP due to the project's impacts to visual resources and community character; public access; water quality, and environmentally sensitive habitat areas (ESHA). In addition, the Appellant contends that the project is inconsistent with LCP density policies and is incompatible with the bulk, scale, lot size, and house size of the surrounding neighborhood, and is not coastal dependent development. Please see Exhibit 3 for the Appellant's complete appeal document.

3. Visual/Community Character Issues

Visual Issues. The Appellant contends that the proposed project would negatively impact the special character of Pleasure Point. The Appellant contends that the proposed project does not protect visual resources from East Cliff Drive, does not comply with Local Coastal Program (LCP) policies that preclude permanent structures where visible from the beach and that protect public ocean vistas.

Community Character Issues. The Appellant contends that the projects Spanish revival architectural style is not consistent with the surrounding neighborhood, which he asserts is represented primarily by architectural style from the California craftsmen/arts and crafts period. The Appellant contends the project does not protect cultural resources because it would remove existing structures which date back several decades. The Appellant further contends that the projects bulk and scale is out of sync with surrounding structures; that the project increases neighborhood density, which is not consistent with the LCP policies regulating density. Additionally, the Appellant contends that the project is inconsistent with the LCPs Community Design policies, which recognize established neighborhoods such as the Live Oak Planning Area and Coastal Zone,² for their unique characteristics and/or popularity as visitor destination points.

Applicable Policies

As evidenced by the following LCP policies, the County is very protective of coastal zone visual resources and community character. The Santa Cruz County LCP describes "visual resource" areas as areas visible from public roads, and especially along the shoreline. The LCP Visual Resource and other relevant policies applicable to the Appellant's visual and community character contentions include:

5.10.2 Development within Visual Resource Areas. *Recognize that visual resources of Santa Cruz County possess diverse characteristics and that the resources worthy of protection may include, but are not limited to, ocean views, agricultural fields, wooded forests, open meadows,*

² Figure 8-1 Areas with Special Design Criteria or Guidelines; Santa Cruz County LCP, pg. 8-2



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and mountain hillside views. Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these resources consistent with the objectives and policies of this section...

5.10.3 Protection of Public Vistas. *Protect significant public vistas as described in Policy 5.10.2 from all publicly used roads and vista points by minimizing disruption of landform and aesthetic character caused by grading operations... ..utility wires and poles, signs, inappropriate landscaping and structure design. Provide landscaping to screen development which is unavoidably sited within these vistas.*

5.10.6 Open Beaches and Blufftops. *Prohibit the placement of new permanent structures which would be visible from a public beach, except where allowed on existing parcels of record, or for shoreline protection and for public beach access. Use the following criteria for allowed structures:[emphasis added].*

- a) *Allow infill structures (typically residences on existing lots of record) where compatible with the patter of existing development.*
- b) *Require shoreline protection and aces structures to use natural materials and finishes to blend with the character of the area and integrate with the landform.*

5.10.10 Designation of Scenic Roads. *The following are valued for their vistas. The public vistas from these roads shall be afforded the highest level of protection.*

County Roads: *...East Cliff Drive – from 33rd Avenue to 41st Avenue...*

5.10.12 Development Visible from Urban Scenic Roads. *In the viewshed of urban scenic roads, require new discretionary development to **improve the visual quality through siting, architectural design, landscaping and appropriate signage**... [emphasis added].*

IP Section 13.20.130(b)(1) Entire Coastal Zone, Visual Compatibility. *The following Design Criteria shall apply to projects site anywhere in the coastal zone: All new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas.*

IP Section 13.20.130(d)(1) Beach Viewsheds, Blufftop Development. *The following Design Criteria shall apply to all projects located on blufftops and visible from beaches: Blufftop development and landscaping...in rural areas shall be set back from the bluff edge a sufficient distance to be out of sight from the shoreline, or if infeasible, not visually intrusive.*

The LCP recognizes Live Oak as a special area and requires that its community character, be protected.



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Additional relevant policies applicable to the Appellant's contentions include:

Objective 8.4 Residential Neighborhoods. To preserve the residential use and character of existing urban neighborhoods...

Policy 8.4.1 Neighborhood Character. Based on the Zoning Ordinance, **require new infill development on vacant land within established residential neighborhoods to be consistent with the existing residential character of the neighborhood, dwelling unit types, and where appropriate, architectural style**, allowing for innovative design for clustering or solar design. Project density in established residential neighborhoods shall be compatible with existing neighborhood density, consistent with the land use designations, with incentives given to accommodate elderly and low and moderate income housing...[emphasis added].

Objective 8.8, Villages, Towns and Special Communities. To recognize certain established urban and rural villages as well as Coastal Special Communities for their unique characteristics and/or popularity as visitor destination points; to preserve and enhance these communities through design review ensuring the compatibility of new development with existing character of these areas.

Policy 8.8.1 Design Guidelines for Unique Areas. Develop specific design guidelines and/or standards for well-defined villages, towns and communities... New development within these areas listed in Figure 8-1 and any other subsequently adopted area plan, shall conform to the adopted plans for these areas, as plans become available.

Figure 8-1 Areas with Special Design Criteria or Guidelines. ...Area: Coastal Zone and Coastal Special Communities; Design Guideline Source: Coastal Zone Regulation Ordinance, General Plan/Local Coastal Plan; Live Oak Planning Area; Design Guideline Source: Live Oak Community Plan

Other relevant LCP policies include:

Objective 2.9 Urban Medium Density Residential Designation (R-UM). To provide medium density residential development (7.3 to 10.8 units per net developable acre) in areas within the Urban Services Line (USL) served by a full range of urban services, with access onto collector or arterial streets, and location near neighborhood, community or regional shopping facilities. Housing types appropriate to the Urban Medium Density Residential designation may include: detached houses, duplexes, townhomes, mobile home parks, and small lot detached units at allowable densities.

Policy 2.9.1 Minimum Parcel Sizes. Allow residential development at densities equivalent to 4,000 to 6,000 square feet of net developable parcel area per unit. Increased density incentives



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for projects with a large percentage of very low or low income housing and for senior housing projects are also allowed in accordance with State law.

Policy 2.9.2 Specific Density Determination. *Consider terrain, adequacy of access, presence of significant environmental resources, the pattern of existing land use in the neighborhood, and unique circumstances of public value, for instance, the provision of very low or lower income housing in accordance with State law, in determining the specific density to be permitted within the Urban Medium Density Residential designation.*

Conformance with Applicable Policies

The LCP describes visual resource areas as, among other things, areas visible from urban scenic roads (which includes East Cliff Drive from 33rd Avenue to 41st Avenue) and views from public beaches. The project is located just inland of East Cliff Drive, and the shoreline bluffs are just seaward. East Cliff Drive is the first through public road and is heavily used by the public for both through and recreational access. The current view of the project site from East Cliff Drive looking to the north side of the street (where the project is located) consists of three single-family residences and undeveloped vacant land. Two of the single-family residences are one-story; the remaining residence is a two-story structure. The view on the south side or seaward side of East Cliff Drive at this location is generally unobstructed bluffs, beach and ocean views (there is a very small house opposite East Cliff Drive from this site). The view from public beaches and from the water for surfers and other ocean enthusiasts is one of a dense mixture of small and large cottages and bungalows whose different styles, scale and rooflines that blend with the surrounding residences. The surrounding neighborhood is a mix of architectural styles that despite eclectic new and old styles, flow together and are made up of one and two-story residences, including multiple multi-family structures. This area has an informal, beach community aesthetic and ambience that distinguishes it from other neighborhoods surrounding it within the County.

The LCP requires that the proposed project “be visually compatible and integrated with the character of the surrounding neighborhoods or areas” (IP Section 13.20.130(b)(1)) and sensitively designed to retain and preserve visual resources and visual access (see applicable policies above). The Appellant claims that this is not the case because: (1) the new townhouses would be too large and not aesthetically in character with the surrounding development; and (2) the three smaller houses that would be removed on site are more evocative of the local housing stock and/or should be preserved for what historically was present in Pleasure Point.

In terms of replacing the smaller homes with larger townhouses, the proposed project is clearly different than what exists on the site today. As such, it will change the character of the site. However, the existing situation on this site is hardly typical of development in and around the area. Development within this section of the County is very dense, and has been increasing in size, architectural detail, and cost rapidly over the past two decades. Surrounding neighborhood development, particularly that landward of East Cliff Drive is mostly two-story with much redevelopment occurring recently. The properties surrounding this site are currently developed nearly or as densely as the project proposed



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here. The structures proposed, while distinct by nature of Spanish Revival in terms of architectural detail, are not wildly different from development within the neighborhood surrounding the site. So while the site will change, the overall character of the area will not be substantially altered by the proposed project.

The County does not recognize the existing houses on the site as a historic resource. Although clearly they are older structures, they are not particularly representative or a typical example of local historical architecture, nor are they associated with any persons particularly important in the development of the County. The existing structures are small, as were many of the original cottages developed in and around Pleasure Point, but not particularly critical for maintaining the character of the area (a densely developed character different than the existing homes here).

Conclusion

The LCP requires that new infill development be consistent with the existing residential character of the neighborhood including architectural style (Policy 8.4.1). The project site has an LCP/General Plan land use designation of Urban Medium Density Residential (R-UM). This density allows a density range of 7.3 to 10.8 units per net developable acre, which corresponds to lot size requirements of 4,000 square feet to 6,000 square feet of net developable parcel area. As proposed the project will have a density of 10.1 units per developable acre, for an average of 4,322 square feet per lot. The project is in the Multi-family Residential Zone District (RM-4; 4,000 square feet of net developable land area per dwelling unit). As a result, the projects density is within the range provided by the R-UM and RM-4 designations. Additionally, as permitted by the LCP the project will meet the LCP standards for height, floor area ratio (FAR), front setbacks, side setbacks, rear setbacks, and site coverage (less than 30%). The County states that the Spanish Eclectic architectural style is compatible with other Spanish style structures in Pleasure Point.

The LCP protects the unique Pleasure Point community and visual character and requires development to be compatible with it. The County-approved project represents a fairly large-sized development for the .75 acre combined property. However, it is one that retains all trees on site and one that is within the zoning and density range. Coastal views from public viewing areas will not be blocked, and the development visible from the water and beaches below, although larger than the existing homes to be demolished, is generally in character with this portion of the County's shoreline. The LCP does not require that development in urban environments be completely out of view but rather that it be compatible. Therefore the County approved project is consistent with the LCP visual and community character policies. Design review and character assessment is often somewhat discretionary, and the Appellant argues some of the finer points of design and character compatibility. The certified LCP does not include specific design guidance for the Pleasure Point area against which to evaluate the proposed project. In its absence, judgment calls must be made against the broader County design standards, as was done by the County in this case.

The Appellant correctly points out that the project will be larger and denser than the existing homes.



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However, the County-approved project is substantially consistent with its larger surroundings and is within the allowed scale for this site (FAR, coverage, height, and setbacks). Therefore, these issues do not rise to the level of a substantial issue in terms of the project's conformance with the certified LCP's community and visual character policies cited in this finding.

In making this finding, the Commission again encourages that the County provide better defined design guidance for the Live Oak beach area in subsequent LCP amendments.³ As articulated by the Appellant, this area has an informal, beach community aesthetic and ambiance – particularly in Pleasure Point – within which extensive redevelopment⁴ is expected (as homes are remodeled, increased in size, etc.) in the future. If the informal charm and appeal of the area is to be defined and maintained, the County needs better tools with which to make decisions. Such tools should take the form of better defined design guidelines, and may include additional design review measures (for example, an architectural review board or equivalent). Such tools help all parties understand what is expected in proposed development, and allows the community to establish a vision for the future. If the Live Oak Community Plan identified in the LCP is not to be developed for whatever reason, then some other form of guidance is necessary. Such guidance in any case should encompass residential, commercial, and public improvement (e.g., streetscape) projects and provide standards for each.

4. Public Access Issues

The Appellant contends that the project does not protect land along the coast for recreation and open space. Moreover, the Appellant contends that the project does not protect prescriptive rights on a historic trail traversing the site and providing public access from Moana Way to East Cliff Drive, thus impacting public access to the coastal bluffs, beaches and surfing spots along this segment of East Cliff Drive.

Applicable Policies

Relevant LCP policies include:

Objective 7.7.b Shoreline Access. *To provide a system of shoreline access to the coast with adequate improvements to serve the general public and the coastal neighborhoods which is consistent with the California Coastal Act, meets public safety needs, protects natural resource areas from oversuse, protects public rights and the rights of private property owners, minimizes conflicts with adjacent land uses...*

Objective 7.7c Beach Access. *To maintain or provide access, including visual access, to every*

³ See A-3-SCO-00-076 (Santa Cruz County Department of Public Works), A-3-SCO-01-034 (Rogers)

⁴ Because of the dearth of vacant lots in this area, redevelopment is much more likely in the future than significant new development on previously vacant lots.



beach to which a granted access exists or to which the public has acquired a right of access through use, as established through judicial determination of prescriptive rights, and acquisition through appropriate legal proceedings, in order to ensure one access to every pocket beach and convenient, well distributed access to long sandy beaches...

Policy 7.7.1 Coastal Vistas. *Encourage pedestrian enjoyment of ocean areas and beaches by the development of vista points and overlooks with benches and railings, and facilities for pedestrian access to the beaches...*

Policy 7.7.10 Protecting Existing Beach Access. *Protect existing pedestrian, and where appropriate, equestrian and bicycle access to all beaches to which the public has a right of access, whether acquired by grant or through use, as established through judicial determination of prescriptive rights, and acquisition through legal proceedings. Protect such beach access through permit conditions such as easement dedication or continued maintenance as an accessway by a private group...*

Policy 7.7.11 Vertical Access. *Determine whether new development may decrease or otherwise adversely affect the availability of public access, if any, to beaches and/or increases the recreational demand. If such impact will occur, the County will obtain, as a condition of new development approval, dedication of vertical access easements adequate to accommodate the intended use, as well as existing access patterns, if adverse environmental impacts and use conflicts can be mitigated under the following conditions:*

...b) Within Urban Services Line: ...through properties inland of the first public roadway if there is evidence that residents have been using the property to gain access to the shoreline, and if closure of the pathway would require residents to detour more than one-eighth mile...

Conformance with Applicable Policies

The LCP and Coastal Act require public access and recreational uses to be preserved. The project is located on the landward or north side of East Cliff Drive and will not impact lateral access along the coast, (nothing is proposed along East Cliff Drive that would block public access). Historically, the subject project has been used for access to bluff top pedestrian areas and beach access points for surfers and visitors alike on the seaward side of East Cliff Drive (i.e., from Moana Way to East Cliff Drive). The County recognized the importance of preserving this coastal access feature and required the project Applicant to dedicate a pedestrian easement for use by the general public. The access easement would connect Moana Way to East Cliff Drive and be clearly demarcated with public access signage that meets the Coastal Commission signage requirements. Therefore, as conditioned the project does not raise a substantial issue with respect to public access.

5. Water Quality Issues



The Appellant contends the project does not utilize best management practices for control and treatment of urban runoff, including wastewater discharge to maintain local, state and national water quality standards to protect the public health and safety and sensitive marine habitats of Monterey Bay. The Appellant states that the projects use of silt and grease traps do not remove petrochemical or other pollutants of concern. The Appellant contends an alternative project design would better prevent pollutants from entering into Monterey Bay, and believes the use of covered parking (building resident structure on top of the parking lot versus an open air parking lot) would help address runoff issues.

Applicable Policies

The LCP relevant policies are as follows:

Objective 5.4 Monterey Bay and Coastal Water Quality. To improve the water quality of Monterey Bay and other Santa Cruz County coastal waters by supporting and/or requiring the best management practices for the control and treatment of urban run-off and wastewater discharges in order to maintain local, state and national water quality standards, protect County residents from health hazards of water pollution, protect the County's sensitive marine habitats and prevent the degradation of the scenic character of the region.

Policy 5.4.1 Protecting the Monterey Bay National Marine Sanctuary from Adverse Impacts. Prohibit activities which could adversely impact sensitive habitats of the Monterey Bay National Marine Sanctuary, including the discharge of wastes and hazardous materials. The main sources of concern are wastewater discharge, urban runoff...

Policy 5.4.14 Water Pollution from Urban Runoff. Review proposed development projects for their potential to contribute to water pollution via increased storm water runoff. Utilize erosion control measures, on-site detention and other appropriate storm water best management practices to reduce pollution from urban runoff.

Conformance with Applicable Policies

The LCP dictates that impervious surfaces be minimized, pre-development runoff rates are to be maintained, and that everything possible is done to protect the water quality of Monterey Bay. Additional impervious surfacing is expected with the proposed project. However, the approved project has addressed runoff concerns to a degree in that it would include silt and grease traps. While it can be said that there may be better ways to address runoff than silt and grease traps (some of these alternatives include use of biofiltration swales in combination with engineered measures, using runoff for irrigation, etc.), the County required use of silt and grease traps, which are not insignificant to address runoff, and would provide some amount of water quality enhancement. Thus, the Appellant's contention that there may be alternative methods of treating runoff raises an issue; it is not a substantial issue regarding conformity with the LCP.



6. Other Issues

The Appellant contentions include several other issues with respect to the projects inconsistency with the LCP.

Coastal Dependent Development

The Appellant contends that the project is not consistent with LCP policies concerning coastal dependent development. The existing parcels contain residences and are located within an established residential neighborhood that is designated for continued residential use in the LCP. There is no LCP requirement that the project be coastal dependent. Thus, the project raises no substantial issue with regard to coastal dependent uses.

Affordable Housing

The Appellant contends that the project does not conform to LCP policies regulating low to moderate income housing in the coastal zone.⁵ Affordable housing is not a Coastal Act issue. Nonetheless, the LCP allows for in-lieu fees to provide alternate affordable housing options off-site. The project has been conditioned to pay in-lieu fees to the County's affordable housing fund in order to provide affordable housing off-site. Consequently, the project will provide an additional affordable housing unit by paying an in-lieu fee versus meeting the minimum on-site affordable housing requirements. Thus the project does not raise a substantial issue with respect to LCP lower and moderate-income housing policies.

Archaeological Resources

The Appellant contends that the project is inconsistent with LCP policies protecting archaeological resources because the applicant was not required to do a specific site survey and depends on the registers to support the claim that the site is not significant. The project site was determined to not contain any archaeological sites by review of archaeological maps. However, the County has conditioned the project to cease and desist any activity on site should any artifact or other evidence of an historic archaeological resource or a Native American cultural site be discovered during construction consistent with procedures established in the LCP. Thus, the project does not raise a substantial issue with regards to archaeological resources.

Environmentally Sensitive Habitat Area

⁵ Objective 2.23 Conservation of Coastal Land Resources; Policy 2.23.1 Lower and Moderate Income Housing in the Coastal Zone; pg. 2-47



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The Appellant contends that the project site contains a seasonal wetland and that because of the LCP protection provided it, the project is inconsistent with the LCP in this regard. According to the County's findings, there is seasonal standing water that collects after some rains during the wet season due to low spots in the ground combined with clayey soils. There are not any native plants located on the property, there are not any plants associated with wetlands, and the County's soil evaluation does not indicate a presence of hydric soils. It is apparent that the site is subject to over-saturation during certain periods of the wet season, as is any residential yard with the same soil characteristics on a periodic basis. The County did not find evidence of any biologically sensitive habitat on the project site. A wet yard does not make a wetland; the LCP's wetlands policies are not germane to this project. Thus the project does not raise a substantial issue with respect to the LCP's wetland protective policies.

Conclusion

The LCP protects the community character of coastal Live Oak, including Pleasure Point, its associated viewshed, the habitat value of Monterey Bay, and the coastal trail access from Moana Way to East Cliff Drive. The County-approved project will have a negligible impact on these public resources; some aspects of the County-approved project will enhance these resources (e.g., permanent demarcated public access across the parcel site, inland tree planting, open space/common area; etc.). Although the Appellant raises some valid coastal issues, the County-approved project has been conditioned to be sensitive to its important location and to the LCP issues engendered here. Accordingly, and as detailed in the above findings, the issues raised by the Appellant do not rise to the level of a substantial issue in terms of the projects conformance with the certified LCP policies cited in this staff report and the Commission declines to take jurisdiction over the coastal development permit for the project.



California Coastal Commission